REMARKS

Claims 1, 2, 5-14, 17, and 19-39 are pending in this application. By this Amendment, claims 1, 14, 19, 20, and 31 are amended. No new matter is contained in the amendments. Accordingly, claims 1, 2, 5-14, 17, 19-39 are currently pending in the present application and are submitted for reconsideration.

The Applicant expresses gratitude to the Examiner for the telephonic interview conducted on April 24, 2006.

Claims 1-18 and 32-37 Rejected Under 35 U.S.C. § 112, First Paragraph

Claims 1-2, 5-14, 17, and 32-37 were rejected as failing to comply with the enablement requirement. Specifically, the Office Action took the position that "the claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In the Examiner's Response to Arguments, the Examiner concedes that the section to which the applicant's previously pointed shows a comparison of expected to actual services. The Examiner notes that the section fails to teach what calculation is done to identify the "expected" services a student needs. In the present application at paragraph 0017, the specification states that "a service plan is used that describes the services that are expected to be provided to an individual." Paragraphs 0046 and 0052 further discuss the method of calculating the "expected" services a student needs.

In addition, U.S. patent application no. 10/455,804, which is a co-pending application of the applicants that is incorporated by reference in the current application

(See paragraph 0049), discloses a method of calculating "expected" services in further detail in paragraphs 0074, 0077-0098, 0107, 0113-0115, 0155, and 0156, lines 20-29. Additional information regarding inputting a service plan is found in U.S. Application No. 10/648,790 page 36, line 9 – page 38, line 20, which is incorporated by reference in the current application (See paragraph 0048 of the current application).

The applicants, again, submit that each of Figures 11-13, and the accompanying description on pages 26-30, illustrates algorithmic flow charts with steps of present invention.

In view of at least the foregoing, Applicants respectfully submit that the specification describes the claimed "calculations" in manner that would allow those of ordinary skill in the art to make and use the claimed invention. Therefore, Applicants respectfully request that the Examiner withdraw the enablement requirements of claims 1-18 and 32-35.

Claims 1-39 Rejected Under 35 U.S.C. § 103(a)

Claims 1-39 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over 4GL in view of Roper (U.S. Patent No. 6,270,351). The applicants respectfully traverse the rejection.

The applicants submit that 4GL fails to disclose or suggest at least the features of the present invention at the computer processor, generating information indicating required services, missed services, missing services, and services met, attempted and made-up, and, at the computer processor, generating a result for the at least one identified service

plan, the result indicating the shortfall and surplus of encounters for the at least one identified service plan, as claimed in claim 1, as amended.

Roper fails to cure the deficiency in 4GL. Therefore, the applicants submit that claim 1, as amended, is allowable over the cited art for at least these reasons.

For similar reasons, the applicants submit that claims 14, 19, 20, and 31, as amended, are likewise allowable over the cited art, when taken alone or in combination.

As claims 1, 14, 19, 20, and 31 are allowable, the applicants submit that claims 2, 5-13, 17, 21-30, and 36-39, which depend from one of claims 1, 14, 19, 20, and 31 are likewise allowable for at least these reasons.

Furthermore, the applicants submit that Under U.S. patent practice, the PTO has the burden under §103 to establish a *prima facie* case of obviousness. In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Both the case law of the Federal Circuit and the PTO itself have made clear that where a modification must be made to the prior art to reject or invalidate a claim under §103, there must be a showing of proper motivation to do so. The mere fact that a prior art reference could arguably be modified to meet the claim is insufficient to establish obviousness. The PTO can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Id. In order to establish obviousness, there must be a suggestion or motivation in the reference to do so. See also In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984) (prior art could not be turned upside down without

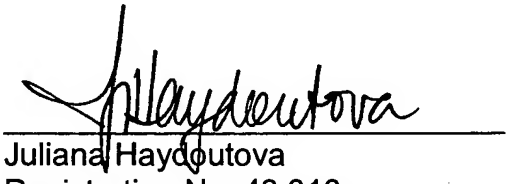
motivation to do so); In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998); In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Lee, 277 F.3d 1338 (Fed. Cir. 2002). The Office Action restates the advantages of the present invention to justify the combination of references. There is, however, nothing in the applied references to evidence the desirability of these advantages in the disclosed structure.

The applicants respectfully request withdrawal of the rejection.

Conclusion

The applicants respectfully submit that the above-captioned patent application is in condition for allowance, and such action is earnestly solicited. If the Examiner believes that an in-person or telephonic interview with Applicants' representatives would expedite the prosecution of the above-captioned patent application, the Examiner is invited to contact the undersigned attorney of records. Applicants believe that no fees are due as a result of this submission. Nevertheless, in the event of any variance between the fees determined by Applicants and those determined by the U.S. Patent and Trademark Office, please charge any such variance to the undersigned's Deposit Account No. 01-2300 referencing to attorney docket number 026063-00018.

Respectfully submitted,



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